

**REMARKS**

Reconsideration of the application in view of the above amendments and the following remarks is respectfully requested. Claims 1, 12, 23, 25, 27-28, and 30-33 have been amended. Claims 1-33 are currently pending in the application.

**CLAIM REJECTIONS – 35 U.S.C. §101**

In the Final Office Action, the Examiner rejected claims 23-33 under 35 U.S.C. §101 as being directed to non-statutory subject matter. As justification for the rejection, the Examiner stated that, even though the claims recited an apparatus, the apparatus would be reasonably interpreted by one of ordinary skill in the art as software per se, thus, failing to be tangibly embodied or include any recited hardware. Although Applicants disagree with this rationale, in the interest of advancing prosecution, Applicants have amended claims 23, 25, 27-28, and 30-33 to recite the elements of the apparatus in "means plus function" format. As made clear by 35 U.S.C. §112, sixth paragraph, the elements of an apparatus (which is statutory) may be claimed using "means plus function" language. Applicants submit that claims 23-33, as amended, are clearly statutory. Thus, Applicants respectfully request that this rejection be withdrawn.

**CLAIM REJECTIONS – 35 U.S.C. §102 and §103**

In the Final Office Action, the Examiner rejected claims 1-4, 7-8, 12-15, 18-19, 23-26 and 29-30 under 35 U.S.C. §102(e) as being anticipated by Armstrong et al. (U.S. Publication No. US 2002/0156824 A1). The Examiner also rejected claims 5-6, 9-11, 16-17, 20-22, 27-28, and 31-33 under 35 U.S.C. §103(a) as being unpatentable over Armstrong et al. In response to these rejections, independent claims 1, 12, and 23 have been amended to clarify the subject matter that is being claimed.

Claim 1

Claim 1 has been amended to recite:

A method performed by an operating system, comprising:  
 establishing a plurality of non-global operating system partitions within a global operating system environment provided by the operating system, wherein each non-global operating system partition serves to isolate processes running within that non-global operating system partition from other non-global operating system partitions within the global operating system environment, wherein enforcement of boundaries between the non-global operating system partitions is carried out by the operating system, wherein the non-global operating system partitions do not each have a separate operating system kernel executing therein, and wherein the plurality of non-global operating system partitions comprises a particular non-global operating system partition;  
 associating the particular non-global operating system partition with a first resource pool comprising one or more resources; and  
 ensuring that processes running within the particular non-global operating system partition are allowed to utilize only the resources in the first resource pool.  
 (Emphasis added)

Claim 1 has been amended to make it clear that the non-global operating system partitions do not each have a separate operating system kernel executing therein. This amendment makes it extremely clear that the non-global operating system partitions are partitions of a global operating system environment provided by an operating system. They are not each their own separate global operating system environment, as would be the case if they each had a separate operating system kernel executing therein. This amendment is amply supported by the Specification (see e.g. paragraphs 0011, 0015, Fig. 1 (which clearly shows multiple non-global operating system partitions 104(a), 104(b) but only one operating system kernel 150), etc.).

The method of claim 1 is neither disclosed nor suggested by Armstrong. Instead, Armstrong teaches the opposite of that which is recited in claim 1. As shown clearly in Fig. 2 of Armstrong, there is a separate OS kernel executing within each of the logical partitions (also see the last sentence of paragraph 0026). This means that each logical partition of Armstrong has its

own operating system environment provided by its own OS kernel. Unlike the method of claim 1, there is nothing in Armstrong (as far as Applicants can see) that discloses or suggests establishing a plurality of non-global operating system partitions within a global operating system environment provided by an operating system, wherein the non-global operating system partitions do not each have a separate operating system kernel executing therein. Because Armstrong fails to disclose or suggest at least this aspect of claim 1, Applicants respectfully submit that claim 1 is patentable over Armstrong.

Applicants further submit that claims 2-11, which depend from claim 1, and which recite further advantageous aspects of the invention, are likewise patentable over Armstrong for at least the reasons give above in connection with claim 1.

#### Claim 12

Claim 12 is a machine-readable storage medium counterpart of method claim 1, which has been amended in a manner similar to that of claim 1. Applicants submit that claim 12 is patentable over Armstrong for at least the reasons given above in connection with claim 1.

Applicants further submit that claims 13-22, which depend from claim 12, and which recite further advantageous aspects of the invention, are likewise patentable over Armstrong for at least the reasons give above in connection with claim 12.

#### Claim 23

Claim 23 is an apparatus counterpart of method claim 1, which has been amended in a manner similar to that of claim 1. Applicants submit that claim 23 is patentable over Armstrong for at least the reasons given above in connection with claim 1.

Applicants further submit that claims 24-33, which depend from claim 23, and which recite further advantageous aspects of the invention, are likewise patentable over Armstrong for at least the reasons give above in connection with claim 23.

### **CONCLUSION**

For the foregoing reasons, Applicants submit that all of the pending claims are patentable over the art of record, including any art cited but not applied. Accordingly, allowance of all of the pending claims is hereby respectfully solicited.

The Examiner is invited to telephone the undersigned at (408) 414-1080 to discuss any issues that may advance prosecution.

No fee is believed to be due specifically in connection with this Reply. To the extent necessary, Applicants petition for an extension of time under 37 C.F.R. § 1.136. The Commissioner is authorized to charge any fee that may be due in connection with this Reply to our Deposit Account No. 50-1302.

Respectfully submitted,

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